

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ZACHARY R. GRAHAM, KEVIN R. SHAY,

Plaintiffs,

21cv0148

ELECTRONICALLY FILED

v.

PENNSYLVANIA DEPARTMENT OF
CORRECTIONS, ET AL.,

Defendants.

MEMORANDUM ORDER OF COURT

Pro se Plaintiffs brought this case on February 1, 2021, with the filing of a motion to proceed *in forma pauperis*. Both Plaintiffs are and were incarcerated in a State Correctional Institution in Waynesburg, Pennsylvania (“SCI-Geene”).

Although it is difficult to discern, it appears to this Court that Plaintiffs attempted to file a class action lawsuit contending their rights as transgender and cis-gender inmates had been violated under “Defendants’ policy” (which was never explained or defined).

What is clear, is that many different Defendants were served, many motions were filed in an attempt to get to the heart of the claims being raised by Plaintiffs, and Plaintiffs amended their complaint on numerous occasions.

United States Magistrate Judge Maureen Kelly held a telephonic conference with Plaintiff Graham and Defense Counsel in October of 2021, and consistent with the discussions held during that conference, Magistrate Judge Kelly denied Plaintiffs’ motion for preliminary injunction and TRO and dismissed their motion for certification of class action. [ECF 50](#), [ECF 57](#), [ECF 64](#), ECF 65, ECF 66. Thereafter, on March 21, 2022, Magistrate Judge Kelly issued a

Report and Recommendation granting in part and denying in part the Motion to Dismiss for failure to state a claim in the instant case. [ECF 71](#). After careful consideration of the matter, this Court issued an Order on July 21, 2022, adopting the Magistrate Judge's Report and Recommendation. [ECF 74](#).

Through the Report and Recommendation and subsequent Court Order, Plaintiffs were permitted to file a third amended complaint by August 11, 2022. See ECF 75. In the meantime, the remaining Defendants filed their Answer to the remaining claims averred by Plaintiffs in the Second Amended Complaint. [ECF 78](#). Defendants also requested that the Court issue an Order to take the Plaintiffs' depositions. [ECF 80](#) and [ECF 81](#). Shortly thereafter, on September 6, 2022, Plaintiffs filed a Notice of Voluntary Dismissal ([ECF 82](#)), which this Court has construed a Motion to Voluntarily Dismiss the instant matter in accordance with Rule 41(a)(2).

AND NOW this 15th day of September, 2022 the Court hereby GRANTS Plaintiffs' Motion to Voluntarily Dismiss ([ECF 82](#)) of the instant matter. The Clerk is ORDERED to mark this docket CLOSED.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: Counsel of record
and
Zachary R. Graham
NP2097
and
Kevin R. Shay
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